

REMARKS

Claim 1 has been amended in response to the rejection under 35 U.S.C. 112, paragraph 2. Applicants believe more meaning was read into the term “in” than was intended. The amended claim is perhaps more clear.

The invention resides in the discovery that the known culture method using a three-dimensional collagen sponge-gel provides a suitable tissue source for RNA to determine expression patterns and is thus useful in gauging the response of the cultured tissue to various protocols or drugs. The invention employs a well-known technique of three-dimensional collagen sponge-gel culture and known techniques of RNA extraction. There are no new techniques required to practice the invention. The invention lies in the discovery that the three-dimensional sponge-gel culture provides a faithful mimic of *in vivo* conditions.

The Rejection Under 35 U.S.C 112, Paragraph 1

This basis for rejection appears to lie partially in the meaning attributed to “in” in claim 1. This word no longer appears and has been replaced by “using”. The Office asserts that the specification does not set forth any method by which the sample tissue would penetrate the pores of the sponge-gel and still maintain its structure as the tissue and that there is no teaching in the prior art toward the growth of tissue in such a matrix while maintaining tissue structure.

This is simply not the case. As set forth in paragraph 3 of the specification, the techniques for providing the sponge-gel cultures that are the subject of the invention have an extensive literature, and are even trademarked. This paragraph provides an exemplary paper by Singh, *et al.* and the summary of this procedure. Thus, the procedure used as the basis for the present invention is well-known in the art and need not further be described.

In view of the well-known nature of the culture method, it is believed no further description is required and that it would be appropriate to withdraw this rejection.

It appears that the appendix bibliography referred to in paragraph 3 was not attached. Accordingly, paragraph 3 has been amended to delete reference to this.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. **312762004200**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: December 26, 2006

Respectfully submitted,

By Kate H. Murashige
Kate H. Murashige
Registration No.: 29,959
MORRISON & FOERSTER LLP
12531 High Bluff Drive, Suite 100
San Diego, California 92130-2040
(858) 720-5112